

Appl. No. : **09/785,044**
Filed : **February 14, 2001**

REMARKS

Claims 1 and 6 are amended and Claims 10-17 are added by this paper. Claims 2-5 and 7-9 are unchanged. Claims 1-17 are pending in the application. Reconsideration and allowance of the claims in light of the present remarks is respectfully requested. The amendments for Claim 1 are for clarification purposes only and are not intended to avoid prior art or to be narrowing.

Discussion of the Rejections Under 35 U.S.C. § 102(e)

Claims 6 and 8 were rejected under 35 U.S.C. § 102(e) as being anticipated by Branson et al. (U.S. Patent No. 6,598,035).

To Anticipate a Claim, the Reference Must Teach Every Element of the Claim

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Applicant's Claim 6 recites:

An object based automated diagnostic system comprising a plurality of objects which interact to determine the diagnosis of a patient, wherein the objects includes at least two of: a disease object, a symptom object, a valuator object, a question object, a node object and a candidates object.

The Office Action mailed April 22, 2005 on page 2 states that "Branson does not explicitly disclose a disease object". The Branson reference does describe condition classes that arguably may correspond to symptom objects. However, the Branson reference does not describe a valuator object, a question object, a node object or a candidates object, as recited in the claim. Thus, Branson does not describe at least two of the recited objects.

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Discussion of the 35 U.S.C. § 103(a) Rejections

Claims 1-5, 7 and 9 were rejected under 35 U.S.C. § 103(a) as being obvious over Branson et al. (U.S. Patent No. 6,598,035) in view of Gray (U.S. Patent No. 6,149,585).

Prima Facie Obviousness Requires a Teaching or Suggestion of All Claim Limitations

M.P.E.P. § 2143.03 recites that all claim limitations must be taught or suggested. To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

The structures of the Branson system and of the Gray system are entirely different than that claimed by Applicant. Applicant's Claim 1 (and similarly for the independent Claim 9) recites in part: "providing a plurality of disease objects, each disease object associated with a plurality of symptom objects". The Office Action on page 2 states that "Branson does not explicitly disclose a disease object". Therefore, the fundamental structure of the Branson mechanism is different such that Branson cannot disclose "each disease object associated with a plurality of symptom objects" and subsequently "a particular disease object includes a preferred weight for one or more preferred symptoms and an alternative weight for one or more alternative symptoms" as recited in Claim 1. Applicant respectfully submits that the citations in the Gray reference for disclosing a plurality of disease data associated with a plurality of symptom data do not describe disease objects and symptom objects. Software objects are software structures that are combinations of data and processes that manipulate the data. Applicant's specification at least at pages 14-15 (and in Figures 29a and 29b) describes one embodiment of a disease object and at least at pages 15-18 describes one embodiment of a symptom object. At best, Gray describes disease names and data of symptoms, but Gray does not describe that the diseases and symptoms each include processes that manipulate the data.

Furthermore, Claim 1 recites in part: "assigning a weight for each symptom, wherein a particular disease object includes a preferred weight for one or more preferred symptoms and an alternative weight for one or more alternative symptoms". The Office Action identified column

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6, lines 25-48 as describing this portion of Claim 1. The description of the seven identified symptoms in the cited portion of Gray shows that each symptom (e.g., palpable mass, pain more severe at night) has a particular numerical value assigned. However, the symptoms in Gray are not identified as being preferred symptoms and alternative symptoms with respect to the preferred symptoms. The symptoms are not related to each other so as to be alternative symptoms with respect to the preferred symptoms and having alternative weights, e.g., there is no discussion of alternative symptoms for "pain more severe at night" having an alternative weight.

The Office Action states that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize disease data and associations with symptom data of Gray to the system of Branson in order to present an accurate diagnosis." Applicant respectfully submits that "to present an accurate diagnosis" is a general goal of all automated diagnostic systems and does not specifically discuss why one of ordinary skill in the art would be motivated to combine these particular references. There is no suggestion in either reference to suggest combining an expert system framework (Branson) with a diagnostic enhancement method for determining diagnostic tasks to fine tune a patient diagnosis (Gray). The Gray system presents an accurate diagnosis without the use or need for software objects, and does not suggest the need for software objects as improving a diagnosis. The Branson reference does not suggest a need for combining a non-object based system into their object based system.

The arguments for Claim 1 have similar applicability to dependent Claim 7 and independent Claim 9.

Applicant's Claim 5 recites in part: "wherein each symptom object has underlying objects used to establish the symptom." The Office Action identifies Figure 16 as disclosing Claim 5. However, Figure 16 does not show that each symptom object has underlying objects used to establish the symptom, e.g., "Dizziness" does not have an underlying object.

Dependent Claims

Claims 2-5 and 7-8 are dependent either directly or indirectly on one of the above-discussed independent claims. Applicant respectfully submits that pursuant to 35 U.S.C. § 112, ¶4, the dependent claims incorporate by reference all the limitations of the claim to which they refer and include their own patentable features, and are therefore in condition for allowance.

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Therefore, Applicant respectfully requests the withdrawal of all claim rejections and prompt allowance of the claims.

New Claims

Applicant has added new Claims 10-17. The new dependent Claim 10 has features similar to those in a portion of the second element of Claim 1. New independent Claim 11 is similar to Claim 1 with added features as supported by at least pages 15 and 29 of the specification. New dependent Claims 12-13 are supported by at least page 29 of the specification. New dependent Claims 14-17 are similar to Claims 2-5.

CONCLUSION

Because of the reasons presented above, the Branson reference does not teach or suggest each and every element of Applicant's Claims 6 and 8, and the combination of the Branson and Gray references does not teach or suggest Claims 1-5, 7 and 9. Since it is respectfully submitted that the rejections have been overcome, Applicant respectfully requests allowance of all claims.


In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections are specifically requested. Applicant respectfully submits that the claims of the above-identified application are in condition for allowance. However, if the Examiner finds any impediment to allowing all claims that can be resolved by telephone, the Examiner is respectfully requested to call the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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